

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

IN RE NATIONAL PRESCRIPTION OPIATE  
LITIGATION

This document relates to:

*Track One Cases*

MDL No. 2804

Case No. 17-md-2804

Hon. Dan Aaron Polster

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**SUMMARY SHEET FOR REPLY IN SUPPORT OF DEFENDANTS' MOTION TO  
EXCLUDE THE MARKETING CAUSATION OPINIONS OF MARK SCHUMACHER,  
ANNA LEMBKE, AND KATHERINE KEYES**

Plaintiffs' Opposition makes numerous concessions showing that the marketing causation opinions of Schumacher, Lembke, and Keyes should be excluded. As an initial matter, Plaintiffs concede that Schumacher, Lembke, and Keyes have no education, training, or experience in marketing—much less pharmaceutical marketing. Nor do they have prior experience conducting any marketing-based causation analyses. In fact, Keyes did not even review any marketing materials in this case. Thus, they are not qualified to give the causation opinions they do.

Likewise, they have no methodology: their opinions merely assume a causal effect between Defendants' alleged false marketing and the opioid abuse crisis. Plaintiffs, for instance, do not dispute that none of the three experts has conducted any statistical or data analysis in reaching their causation conclusions; none has interviewed any Ohio prescribers or otherwise attempted to determine whether any prescribers received Defendants' allegedly false marketing and, if so, how it affected their prescribing decisions (if at all); and none has accounted for numerous other acknowledged factors that led to an increase in opioid morbidity and mortality. Rather, Plaintiffs' expert opinions solely rest upon a cursory review of literature showing that marketing can increase sales of medicines. This literature, however, consists of nothing more than generalized studies of pharmaceutical marketing that do not examine *these* manufacturers' marketing of *these* opioid medications or any of the effects of any alleged false marketing *in Ohio* (which Plaintiffs also do not dispute). In fact, Plaintiffs concede that their experts failed to consider each Defendant's marketing materials independently to determine any causal effects. Given the lack of any causation methodology, their speculative causation testimony is unreliable and would be prejudice a jury. It should be excluded.

Dated: August 16, 2019

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<sup>1</sup> Teva Pharmaceutical Industries Ltd., Allergan plc, and Mallinckrodt plc are respectively an Israeli corporation, Irish holding company, and Irish company that are not subject to and contest personal jurisdiction for the reasons explained in their motions to dismiss for lack of personal jurisdiction; they are specially appearing to join this motion as a result of the Court's deadline to file dispositive and Daubert motions, and, thus, they do not waive and expressly preserve their pending personal jurisdiction challenges.

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on August 16, 2019, the Summary Sheet for Defendants' Reply In Support of Their Motion To Exclude The Marketing Causation Opinions Of Mark Schumacher, Anna Lembke, And Katherine Keyes was served via email on all attorneys of record consistent with the June 24, 2019 Order setting forth Directions Regarding Filing of Briefs Under Seal.

/s/ Steven A. Reed  
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